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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,934	03/22/2004	Celso J. Bagaoisan	ACI-004	2871

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Vista IP Law Group LLP
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EXAMINER

WITCZAK, CATHERINE

ART UNIT	PAPER NUMBER
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3767

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/806,934	Applicant(s) BAGAOISAN ET AL.	
	Examiner Catherine N. Witczak	Art Unit 3767	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 21-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17, 19, 20, 25 and 26 is/are rejected.
- 7) ☒ Claim(s) 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/7/2005; 1/25/06</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of 1-20 and 25-26 in the reply filed on 11/9/2006 is acknowledged.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 2, 3, 10, 11, 15, 19, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Jeanbourquin (US 6,223,936).

Claims 1, 10, 11, 15, 19, 25: Jeanbourquin discloses in Figures 1 and 2 an apparatus for delivering a sealing compound (column 1, lines 14-19) comprising: a pair of barrels (4a and 4b) having outlet (91 and 9b); a plunger assembly (6a and 6b) comprising a pair of pistons (5a and 5b); a delivery sheath (14); an auto-injection assembly (40) coupled to the plunger assembly, the auto-injection assembly comprising a compression spring mechanism (40) locked in an inactive condition; and an actuator (42) activatable to release the spring mechanism.

Claim 2: Jeanbourquin discloses in Figures 1 and 2 the spring mechanism (40) being coupled to the plunger assembly (6) and barrels (4).

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Claim 3: Jeanbourquin discloses the spring compressed between a hub (30) and a stop member (41), a shaft (10) extending from the plunger assembly (6) adjacent the spring (32), and wherein the stop member comprises a passage (13) that is aligned with the spring (32) when the actuator (42) is activated.

2. Claims 1, 4, 5, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Kido (US 4,801,434).

Kido et al discloses in Figures 1 and 4 an apparatus for capable of delivering a sealing compound comprising: a pair of barrels (10 and 30) having outlet (11 and 31a); a plunger assembly (22 and 42) comprising a pair of pistons (23 and 43); a delivery sheath (6); an auto-injection assembly coupled to the plunger assembly, the auto-injection assembly comprising a compression spring mechanism (25 and 45) locked in an inactive condition inside the barrels; and an actuator (21 and 41) activatable to release the spring mechanism.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 7, 8, 12, 13, 14, 17, 20 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jeanbourquin as modified by Cruise et al (US 6,994,686).

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Claims 7, 8, 12, 14, and 20: Jeanbourquin discloses the claimed invention except for a valve coupled to the barrel ports for connecting the barrels with containers so as to mix buffer solutions in the barrels with solid polymer precursor components. Cruise et al disclose in Figures 8A-8D that it is known to use a valve to couple barrels and containers containing buffer solution and solid polymers precursor elements. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system ad taught by Jeanbourquin with a valve system as taught by Cruise et al since such a modification would provide a control system for mixing sealant components.

Claims 17 and 26: Jeanbourquin discloses the claimed invention except for an occlusion member used to seal the body lumen from the puncture before activation the actuator to inject the sealing components. Cruise et al disclose in Figure 18 that it is known to use an occlusion member. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Jeanboruquin with an occlusion member to seal the puncture before injection the sealing component as taught by Cruise et al, since such a modification would prevent unwanted sealing component from leaking into the lumen.

2. Claims 9 and 16 rejected under 35 U.S.C. 103(a) as being unpatentable over Jeanbourquin as modified by McIntosh et al (US 2004/0236262).

Jeanbourquin discloses the claimed invention except for the barrels being connected to the delivery sheath via a "Y" fitting that mixes the sealing components in the barrels together. McIntosh et al disclose a "Y" fitting. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Jeanbourquin with a "Y" fitting as taught by McIntosh, since such a modification would allow the components stored in the separate barrels to be mixed before being delivered for use.

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Allowable Subject Matter

Claim 18 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine N. Witczak whose telephone number is (571) 272-7179. The examiner can normally be reached on Monday through Friday, 8-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER



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 12/14/06